

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Coleson Smith	Team: Squad #01	CCRB Case #: 202107296	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/01/2021 1:10 AM	Location of Incident: Roosevelt Avenue between 103rd Street and 104th Street	Precinct: 110	18 Mo. SOL 6/1/2023	EO SOL 6/1/2023	
Date/Time CV Reported Wed, 12/01/2021 2:17 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 12/01/2021 2:17 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO William Veintimilla	05368	963581	110 PCT
2. SGT Francisco Luciano	04878	936988	110 PCT
3. PO Peter Leonello	30054	965264	110 PCT
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Sean Foley	01960	965104	110 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Peter Leonello	Abuse: Police Officer Peter Leonello stopped the vehicle in which § 87(2)(b) was an occupant.	
B. PO Peter Leonello	Abuse: Police Officer Peter Leonello questioned § 87(2)(b)	
C. PO Peter Leonello	Abuse: Police Officer Peter Leonello frisked § 87(2)(b)	
D. PO Peter Leonello	Abuse: Police Officer Peter Leonello searched § 87(2)(b)	
E. PO Peter Leonello	Abuse: Police Officer Peter Leonello searched the vehicle in which § 87(2)(b) was an occupant.	
F. Officers	Abuse: Officers damaged § 87(2)(b) property.	
G. SGT Francisco Luciano	Abuse: Sergeant Francisco Luciano interfered with § 87(2)(b) use of a recording device.	
H. PO William Veintimilla	Abuse: Police Officer William Veintimilla interfered with § 87(2)(b) use of a recording device.	
I. PO William Veintimilla	Abuse: Police Officer William Veintimilla refused to provide his shield number to § 87(2)(b)	
J. SGT Francisco Luciano	Abuse: Sergeant Francisco Luciano refused to provide his shield number to § 87(2)(b)	
K. PO William Veintimilla	Abuse: Police Officer William Veintimilla refused to provide his name to § 87(2)(b)	
L. PO Peter Leonello	Abuse: Police Officer Peter Leonello failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		

§ 87(2)(g), §
87(4-b)

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the online website on December 1, 2021.

On December 1, 2021, at approximately 1:10 A.M., in the vicinity of 103-17 Roosevelt Avenue, in Queens, Police Officer Peter Leonello stopped the vehicle in which § 87(2)(b) was an occupant (**Allegation A: Abuse of Authority:** § 87(2)(g)). He then asked § 87(2)(b) if he had drugs, frisked, and searched him (**Allegations B-D: Abuse of Authority:** § 87(2)(g)). After asking for § 87(2)(b) consent to search his vehicle, he searched the entirety of his vehicle (**Allegation E: Abuse of Authority:** § 87(2)(g)). Officers scratched the exterior of § 87(2)(b) car (**Allegation F: Abuse of Authority:** § 87(2)(g)). While § 87(2)(b) recorded the traffic stop, Sergeant Francisco Luciano and Police Officer William Veintimilla interfered with his use of a recording device (**Allegations G and H: Abuse of Authority:** § 87(2)(g)). PO Veintimilla and Sgt. Luciano refused to provide their shield numbers to § 87(2)(b) (**Allegation I: Abuse of Authority,** § 87(2)(g)). **Allegation J: Abuse of Authority:** § 87(2)(g)) PO Veintimilla refused to provide his name to § 87(2)(b) (**Allegation K: Abuse of Authority:** § 87(2)(g)). PO Leonello failed to provide a business card to § 87(2)(b) (**Allegation L: Abuse of Authority:** § 87(2)(g)). § 87(2)(g), § 87(4-b)

No summonses or arrests resulted from this incident.

Body worn camera (BWC) footage was obtained from Sgt. Luciana, PO Veintimilla, PO Leonello and PO Sean Foley, all from the 110th Precinct (**01-04 Board Review**). The investigation obtained § 87(2)(b) cell phone video recording of the incident from his YouTube page (**05 Board Review**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Peter Leonello stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Peter Leonello questioned § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Peter Leonello searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated he was driving eastbound on Roosevelt Avenue when officers engaged their lights and sirens and pulled him over (**06 Board Review**). There were two police vehicles. None of the officers told him the reason for the stop. § 87(2)(b) stated that during the incident he had a small amount of marijuana in his center compartment, but that he had not been smoking marijuana in the vehicle and there was no odor inside. When PO Leonello asked if he had any drugs in the car, § 87(2)(b) told him he had a small amount of marijuana in the center compartment. PO Leonello then asked if he would mind if the officers searched his vehicle and § 87(2)(b) consented to the search.

PO Leonello's BWC footage begins with him in his police vehicle behind § 87(2)(b) vehicle on Roosevelt Avenue (**01 Board Review**). He is not captured performing a U-turn. At 01:05, PO Leonello approaches the driver's side of § 87(2)(b) vehicle from the rear, and § 87(2)(b) hands over his Texas driver's license, a paper copy of his insurance, and then points to his windshield and references the registration there. There is no smoke visible inside the vehicle. PO Leonello tells § 87(2)(b) that he has a New York State inspection on a Texas registered car. § 87(2)(b) responds, "I have the Texas inspection also." Between 01:33 and 05:30, PO Leonello appears to run § 87(2)(b) information on his phone, while also asking him several questions about his documents. At 02:55, PO Leonello steps to the front of § 87(2)(b) car and leans slightly forward toward the license plate,

which, appearing at a side angle, has a slight bend (screenshot at **07 Board Review**). Roughly thirty seconds later, PO Leonello tells § 87(2)(b) that the officers pulled him over for his bent front license plate, stating “We can’t even make out what the plate number is.” At 05:37, PO Leonello asks if § 87(2)(b) has any drugs in his car; § 87(2)(b) tells him he has marijuana. PO Leonello asks for § 87(2)(b) consent to search the vehicle and § 87(2)(b) agrees. PO Leonello tells him he does not have to accept the search, but § 87(2)(b) again says, “Yeah, if you want to.”

A screenshot taken from 06:16 in PO Foley’s BWC footage shows that all the numbers of § 87(2)(b) front license plate are legible when viewed head-on (**08 Board Review**).

PO Leonello was interviewed twice by the CCRB, first on November 30, 2022, and again on January 27, 2023. He did not review his first interview prior to his second interview. His statements were consistent but where noted otherwise. PO Leonello stated he was driving westbound with Sgt. Luciano along Roosevelt Avenue when he noticed § 87(2)(b) vehicle traveling eastbound with a bent front license plate from Texas (**09-10 Board Review**). He stated he was roughly ten feet from the license plate when he first observed it and that though it was dark out, the street was lit up by nearby storefronts. The bend in the plate was on one of the corners, from bottom to top, and it obscured either the first or last number. PO Leonello alone made the decision to stop the vehicle solely for the bent license plate. He made a U-turn and pulled § 87(2)(b) vehicle over. After viewing screenshots of his own BWC footage capturing a sideview of the bend, he stated that the bend captured on the plate was not as he remembered it. When presented with the screenshot from PO Foley’s BWC capturing the plate head-on, he stated he could read all the numbers and letters on the plate. He then clarified his testimony about the moment he first saw the plate, stating, “I guess it was bent downward.” He explained, “I guess when like a light hit it, I was unable to read it.” He did not recall what digit(s) were unreadable when the light hit the plate. Upon approaching § 87(2)(b) vehicle, PO Leonello did not observe any additional violations. As he neared the front driver’s side window, PO Leonello stated he smelled an odor of marijuana coming from inside. PO Leonello’s memory changed between the first and second interviews in that he initially believed that the marijuana odor was unburnt but later believed that it smelled burnt. In his second interview he also added that he had the impression that § 87(2)(b) was under the influence because of his red eyes. There was nothing else that led him to believe § 87(2)(b) was under the influence. He requested § 87(2)(b) license and registration, and he provided these items. PO Leonello did not recall having any concerns about § 87(2)(b) vehicle upon looking up his information and specified that the mixed New York Inspection sticker with Texas license plates, in and of itself, was not a violation. He stated that § 87(2)(b) had a history of multiple arrests when he looked him up, but that he could not recall what the arrests were for. PO Leonello then asked for § 87(2)(b) consent to search his vehicle, and § 87(2)(b) agreed. At the time he requested for consent to search, PO Leonello suspected § 87(2)(b) of driving under the influence and of altering his license plate. PO Leonello then searched the entirety of § 87(2)(b) vehicle. During his search he found marijuana, though he did not recall how much there was, nor whether it was burnt or unburnt, and stated it was not captured on BWC because when he found it in the center console, the camera was not facing it.

New York State Vehicle & Traffic Law Section 402 states, “number plates shall be kept clean and in a condition so as to be easily readable and shall not be covered by glass or any plastic material ... Plates shall not be knowingly covered or coated with any artificial substances that conceals or obscures such number plate or that distorts a recorded or photographic image of such number plate ... The view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon...” (**11 Board Review**).

According to New York State Vehicle and Traffic Law Section 1227, the consumption of cannabis in a motor vehicle located upon the public highways is prohibited (**12 Board Review**). Any

operator or passenger violating this section shall be guilty of a traffic infraction.

According to *People v. De Bour*, 40 N.Y.2d 210 (14 Board Review) officers may ask accusatory questions when they have a founded suspicion that criminal activity is afoot. Similarly, per *People v. Battaglia*, 86 N.Y.2d 755 (1995), officers may request consent to search only upon obtaining a founded suspicion that criminal activity is afoot (13 Board Review).

BWC refutes PO Leonello's initial statement that § 87(2)(b) front license plate had a corner bent upward or that any numbers/letters were obscured. While BWC corroborated that there was a bend on the license plate, it was a moderate horizontal bend across the length of the license plate. Even if the investigation were to credit PO Leonello's statement that his headlights illuminated the plate in a way so as to obscure it, because the bend was consistent along the length of the plate, it would be more likely that all of the digits would be obscured, rather than just one. Additionally, when BWC captured a straight on view of the license plate, roughly the same perspective from which PO Leonello observed the vehicle before stopping it, all the numbers/letters were readable without issue. § 87(2)(g)

While it is undisputed that § 87(2)(b) had marijuana inside his vehicle, he stated that he had not been smoking at all or inside his vehicle. PO Leonello provided inconsistent testimony over the course of his two statements about whether he smelled burnt or unburnt marijuana, and only noted in his second interview that he observed § 87(2)(b) with red eyes. He did not allege any other reason that indicated that § 87(2)(b) was under the influence. PO Leonello was unable to describe the marijuana he found, upon searching the vehicle, as burnt or unburnt and the BWC did not capture it. BWC also did not capture any conversation between § 87(2)(b) and any officer, or conversation amongst officers regarding the appearance of § 87(2)(b) eyes, fitness to operate a motor vehicle, or discussion about whether he was under the influence of marijuana. § 87(2)(g)

While § 87(2)(b) admitted to having marijuana in his vehicle, such an admission, absent evidence that he was driving under the influence, does not provide a founded suspicion of criminality. § 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Peter Leonello frisked § 87(2)(b)
Allegation (D) Abuse of Authority: Police Officer Peter Leonello searched § 87(2)(b)
Allegation (L) Abuse of Authority: Police Officer Peter Leonello failed to provide § 87(2)(b) with a business card.

It is undisputed that PO Leonello frisked § 87(2)(b) upon his exiting his vehicle.

§ 87(2)(b) stated when he got out of a car, he was frisked by an officer (06 Board Review). When asked if the officer went in his pockets, § 87(2)(b) answered affirmatively, but then noted that the officer may have only patted the outside of his pocket and that it was difficult to remember. He did not recall if any officer gave him a business card.

At 05:59 in PO Leonello's BWC footage, § 87(2)(b) exits his vehicle and PO Leonello presses his left hand against § 87(2)(b) right pectoral area before moving his hands downward toward § 87(2)(b) waist (01 Board Review). Due to the camera being trained on § 87(2)(b) torso, the

movement of PO Leonello's hands are not fully captured after they move downward. At 06:08, PO Leonello leans slightly forward and presses both hands against the front pockets of § 87(2)(b) coat and squeezes the fabric of the left pocket. PO Leonello then rubs his hands along § 87(2)(b) outstretched arms before instructing him to go to the front of his vehicle. At no point in the footage is PO Leonello captured verbally or physically offering § 87(2)(b) a business card.

PO Veintimilla's BWC footage was largely consistent with PO Leonello's and captures this portion of the incident from another angle (**04 Board Review**). At 05:45 in PO Veintimilla's BWC, § 87(2)(b) steps out of his vehicle. PO Veintimilla is standing within two feet of § 87(2)(b) whose back is to the camera. PO Leonello is facing the camera. PO Leonello directs him to spread his arms out wide, which he does. At 05:50, as § 87(2)(b) raises his right arm, the interior of the front left pocket of his jacket is visible through a two-inch opening between the exterior of the pocket and the body of the jacket. With the fingers of his right hand slightly curled towards himself, PO Leonello brings his hand toward the opening of the pocket. The back of PO Leonello's hand blocks the opening of the pocket from view. PO Leonello then bends his hand inward at the wrist and moves the back of his right hand toward the body of § 87(2)(b) jacket, sliding his hand downward and slightly to his left before sliding his hand back upward. Based on PO Veintimilla's position, largely behind § 87(2)(b) body, the location of PO Leonello's hand is not visible.

After obtaining § 87(2)(b) consent, PO Leonello asked § 87(2)(b) to step out of the car and frisked him for his and his fellow officers' safety (**09-10 Board Review**). He did not have any particular safety concerns about § 87(2)(b). Based on his observations of § 87(2)(b) while § 87(2)(b) was still in the driver's seat of his vehicle, he did not suspect him of possessing a weapon, nor did he observe any bulges on his person. He did not notice any bulges on § 87(2)(b) person when he stepped out of the vehicle either. He did not feel anything of concern on § 87(2)(b) when he frisked him. He stated he did not recall whether he entered any of § 87(2)(b) pockets. After viewing PO Veintimilla's BWC from 05:45 to 06:00, he stated it appeared that his hand entered § 87(2)(b) pocket though he did not have any independent recollection of entering § 87(2)(b) pocket and that it was hard to tell from the video whether he entered the pocket. He also stated he uses the back of his hand (as he does in the video) when patting down civilians nearer the groin to avoid any complaints that he may have groped a civilian. PO Leonello then searched the entirety of § 87(2)(b) vehicle. He did not recall if he gave § 87(2)(b) a business card.

According to *People v. De Bour*, 40 N.Y.2d 210 (**14 Board Review**) officers may frisk a detainee should they reasonably suspect that they are in danger of physical injury by virtue of the detainee being armed. In order to search a detainee, officers must have probable cause to believe that the person committed a crime.

Administrative Code §14-174 states that members of service are to offer business cards at the conclusion of certain law enforcement activities, including noncustodial questioning of individuals suspected of criminal activity, frisks, and searches (**15 Board Review**).

PO Leonello testified that he did not have any particular safety concerns regarding § 87(2)(b) nor did he suspect him of possessing a weapon. Upon observing § 87(2)(b) person, he did not observe any bulges either. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Although PO Leonello did not recall entering § 87(2)(b) pocket(s), upon viewing PO Veintimilla's BWC footage, PO Leonello stated it appeared as though his hand entered § 87(2)(b) left jacket pocket. BWC captured PO Leonello's right hand move toward the opening of § 87(2)(b) jacket

pocket, and the subsequent movements of his hand were consistent with those made when entering a pocket. The investigation thus determined that PO Leonello searched at least one of § 87(2)(b) pockets. § 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Officers damaged § 87(2)(b) property.

§ 87(2)(b) noticed a large scratch, approximately a foot long to the right of his rear license plate after his interaction with the officers and said the damage was caused by them, though he did not know who caused it (06 Board Review).

A screenshot from 01:01 in Sgt. Luciano's BWC footage shows that as he and PO Leonello first approach § 87(2)(b) vehicle, there is a scratch approximately a foot long visible to the right of § 87(2)(b) rear license plate (16 Board Review).

BWC shows the scratch alleged by § 87(2)(b) was present on the vehicle before officers came into physical contact with it, therefore refuting his testimony that officers scratched his vehicle. § 87(2)(g)

Allegation (G) Abuse of Authority: Sergeant Francisco Luciano interfered with § 87(2)(b) use of a recording device.

Allegation (H) Abuse of Authority: Police Officer William Veintimilla interfered with § 87(2)(b) use of a recording device.

Allegation (I) Abuse of Authority: Police Officer William Veintimilla refused to provide his shield number to § 87(2)(b)

Allegation (J) Abuse of Authority: Sergeant Francisco Luciano refused to provide his shield number to § 87(2)(b)

Allegation (K) Abuse of Authority: Police Officer William Veintimilla refused to provide his name to § 87(2)(b)

§ 87(2)(b) stated that he was driving around the 115th Precinct on patrol for his organization, Cop Watch Patrol Unit (a civilian based volunteer group) when he observed the traffic stop (17 Board Review). The scene was well lit by storefront lights in the area. § 87(2)(b) parked his vehicle half a block away from the traffic stop and walked closer to the scene so that he could observe and record the officers' interaction with § 87(2)(b). He took out his recording device and recorded the interaction from across the two-lane avenue. § 87(2)(b) did not know § 87(2)(b) nor did he know why § 87(2)(b) was stopped. Approximately one minute later, Sgt. Luciano, who was standing in front of the stopped vehicle together with § 87(2)(b) noticed § 87(2)(b) and shined a flashlight in § 87(2)(b) direction. PO Veintimilla, standing at the rear of the stopped vehicle, also shined his flashlight in § 87(2)(b) direction. § 87(2)(b) believed the officers shined their flashlights toward him so as to blind his recording, and thus told the officers to stop interfering with his recording because he had the right to record. The two officers, however, continued to shine their flashlights in § 87(2)(b) direction. At some point, the officers returned the vehicle's keys and documents to § 87(2)(b). § 87(2)(b) then walked towards the two officers and twice requested their badge numbers. § 87(2)(b) was approximately 10-15 feet away from the officers when he

requested their badge numbers. The officers ignored him, got into their vehicle, and drove off. § 87(2)(b) did not make any allegation about an officer refusing to provide his name.

§ 87(2)(b) did not provide his video recording of the interaction to the CCRB, rather it was found and obtained from § 87(2)(b) YouTube page (**05 Board Review**). At 00:49, on the eastbound side of Roosevelt Avenue, PO Veintimilla and PO Leonello, identified via investigation, are searching the trunk of a double-parked red SUV, while Sgt. Luciano and PO Foley are standing by the hood of the SUV with § 87(2)(b). The street is dimly lit by streetlights, storefront lights, and the lights of passing cars, which drive through the frame frequently. § 87(2)(b) is recording from the westbound side of Roosevelt Avenue, approximately 18 feet away. There are two unmarked sedans (one black and one silver) double-parked in front and behind the stopped SUV, respectively. At 00:51, Sgt. Luciano shines his flashlight in § 87(2)(b) direction for approximately 40 seconds, until the light is directed onto § 87(2)(b) who is standing with Sgt. Luciano at the hood of the red SUV. The light does not obstruct the camera's view of the officers performing the search at the rear of the vehicle. At 01:19, PO Veintimilla shines his flashlight in § 87(2)(b) direction for two seconds before he directs it back to the trunk of the stopped vehicle. Sgt. Luciano continues to hold his flashlight at chest level, pointing outwards. § 87(2)(b) says, "don't interfere with my recording. After that you're going to have to give me your badge number for interfering." PO Veintimilla shines his flashlight again in § 87(2)(b) direction and one of the officers states something inaudible before directing his flashlight back to the trunk of the vehicle. At 05:24, § 87(2)(b) walks toward the black sedan as PO Veintimilla and PO Foley get inside. § 87(2)(b) who is approximately 15 feet away from PO Veintimilla, asks, "Excuse me, what's your name, officer? Officer?" PO Veintimilla proceeds to enter the vehicle's driver's side and shut the door without responding to § 87(2)(b). § 87(2)(b) says, "all right," and reads the officer's vehicle plate number. Sgt. Luciano and PO Leonello enter the silver sedan and drive away.

Sgt. Luciano, PO Leonello, PO Foley, and PO Veintimilla's BWC footage is consistent, but from different angles. Sgt. Luciano's BWC at 08:00 shows Sgt. Luciano, PO Foley, and § 87(2)(b) all in front of § 87(2)(b) vehicle, speaking about life in Texas (**02 Board Review**). At 09:52, § 87(2)(b) enters the camera frame and is standing across the street from § 87(2)(b) and the officers, approximately 40 feet away from the stopped vehicle. He is positioned slightly behind § 87(2)(b) in the camera's line of sight. From 09:53 to 10:23, Sgt. Luciano has the beam of his flashlight directed at § 87(2)(b) left shoulder while he speaks with § 87(2)(b). At 10:26, § 87(2)(b) states, "Don't interfere with my recording. After that you're gonna have to give me your badge number for interfering." Sgt. Luciano then redirects the beam of his flashlight onto § 87(2)(b) chest and at no point afterward shines it in § 87(2)(b) direction.

PO Veintimilla's BWC footage at 09:58 shows him pointing his flashlight across the street towards § 87(2)(b) who is not captured in the footage (**04 Board Review**). § 87(2)(b) appears to complain about the interference to his recording and asks for a badge number. At 10:11, PO Veintimilla, still pointing flashlight towards the street, says "5368," and then redirects his flashlight towards the trunk of the stopped vehicle and § 87(2)(b) responds, "all right". PO Veintimilla does not point his flashlight towards the street again.

PO Veintimilla and Sgt. Luciano's testimonies were consistent with the BWC footage. PO Veintimilla said that he first noticed § 87(2)(b) while he was searching the trunk of § 87(2)(b) vehicle, and that § 87(2)(b) was standing approximately 30 feet away from the officers, and was across the street (**18 Board Review**). PO Veintimilla shined his flashlight towards § 87(2)(b) because § 87(2)(b) was holding something with a flashing light, and thus wanted to see what § 87(2)(b) was doing. PO Veintimilla redirected the flashlight away from § 87(2)(b) after noticing that § 87(2)(b) was holding a recording device and appeared to be recording the officers. PO

Veintimilla shined his flashlight towards § 87(2)(b) a second time because § 87(2)(b) appeared to have said something to the officers that PO Veintimilla did not hear, and thus pointed the flashlight towards § 87(2)(b) direction to look at § 87(2)(b) and find out what § 87(2)(b) was saying. He did not shine his flashlight to interfere with § 87(2)(b) recording. PO Veintimilla heard § 87(2)(b) say something about a badge number, so PO Veintimilla provided his badge number to § 87(2)(b). PO Veintimilla did not know if any other officer provided their badge number to § 87(2)(b) nor did he see any officer shine their flashlight in § 87(2)(b) direction. PO Veintimilla did not recall any additional interactions with § 87(2)(b) nor did he recall hearing § 87(2)(b) request his name.

Sgt. Luciano stated that he shined his flashlight in § 87(2)(b) direction because it was dark outside, that he wanted to see the object § 87(2)(b) was holding, and also wanted to ensure that § 87(2)(b) maintained a safe distance from the officers (**19 Board Review**). Sgt. Luciano did not shine his flashlight to blind § 87(2)(b) recording of the interaction, nor did he interfere with § 87(2)(b) use of a recording device. Sgt. Luciano acknowledged that § 87(2)(b) appeared to say something to the officers but said he did not hear anything § 87(2)(b) said because of the noise from the elevated trains above them, and also because he was speaking with § 87(2)(b). Sgt. Luciano did not hear § 87(2)(b) request for his badge number nor any of the other officers' names and/or badge numbers. None of his fellow officers mentioned anything about § 87(2)(b) asking for their badge numbers.

BWC established that the lighting conditions at the incident location were poor, that there were other vehicles and civilians on the street and sidewalks, and credits that the officers observed § 87(2)(b) from across the street with objects in his hands. § 87(2)(g)

§ 87(2)(b) the fact that the BWC shows the two officers briefly shining their flashlights towards § 87(2)(b) direction further corroborates their account that they did so primarily for safety reasons. Additionally, § 87(2)(b) own recording of this incident also shows that the officers' actions did not in any way blind or obstruct his recording of the incident. § 87(2)(g)

§ 87(2)(b) recording of the incident contradicted his account that he walked towards the officers and requested their badge numbers. The recording showed § 87(2)(b) requesting a badge number from across the street after PO Veintimilla and Sgt. Luciano both pointed their flashlights in his direction, and that the request for the badge number was broad, and not directed at any particular officer. § 87(2)(b) recording shows one of the officers saying something inaudible in response to the request, and although it is unclear from § 87(2)(b) recording what was said, PO Veintimilla's BWC captured PO Veintimilla audibly provide his badge number in response to § 87(2)(b) request for a badge number. While it was reasonable for § 87(2)(b) not to have heard PO Veintimilla provide his badge number, given the distance and ambient noise, the investigation also found that it was equally reasonable for PO Veintimilla not to have known that § 87(2)(b) might not have heard PO Veintimilla provide his badge number, especially given that § 87(2)(b) never made any additional requests for badge number. § 87(2)(g)

As discussed above, the video evidence established that there was significant ambient noise in the background, a significant distance between the officers and § 87(2)(b) and Sgt. Luciano was personally engaged with § 87(2)(b) at the time of the request. § 87(2)(g)

§ 87(2)(g)

Finally, while § 87(2)(b) recording shows § 87(2)(b) walking towards PO Veintimilla and requesting a name just as PO Veintimilla was entering the police vehicle, PO Veintimilla had no independent recollection of any subsequent interaction with § 87(2)(b) nor did he recall hearing § 87(2)(b) request his name. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)

[illegible]

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**24 Board Review**).
- Sgt. Luciano has been a member of service for 18 years and has been a subject in two other CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- PO Veintimilla has been a member of service for five years and has been a subject in three other CCRB complaints and five allegations, one which was not substantiated and two that are currently under investigation. § 87(2)(g)

- ## Mediation, Civil, and Criminal Histories

- [illegible]

Investigator:	<u>Coleson Smith</u> Signature	<u>Inv. Coleson Smith</u> Print Title & Name	<u>02/10/2023</u> Date
Squad Leader:	<u>Mgr. Joy Almeyda</u> Signature	<u></u> Print Title & Name	<u>2.10.23</u> Date
Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date